IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 18290 of 2006

DATE OF DECISION: 20.11.2006

Parminder Kaur ....Petitioner

Versus

State of Punjab and others ....Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr. R.K. Chopra Advocate
for the petitioners.

J.S. Khehar, J.

The petitioner was inducted into the service of the Department of Health and Family Welfare, Punjab, as a Staff Nurse, in 1993. In the year 2003, when the petitioner was working and was posted at Civil Hospital, Pathankot, in district Gurdaspur, she sought, and was granted, 5 years leave under the Self-Employment Scheme. In the order, by which the aforestated leave was granted to the petitioner dated 24.3.2003 (Annexure P1) it was clearly asserted, that she would retain lien against the post held by her. Although the petitioner originally proceeded on leave for a period of 5 years, she returned from her leave on the expiry of 3 years, on 25.3.2006. On her return from leave, she submitted her joining report at Civil Hospital, Pathankot, in district Gurdaspur. However, by an order dated 4.5.2006, the Director, Health and Family Welfare, Punjab, transferred the petitioner, by posting her at

Mini Primary Health Centre, Madhopur, in district Gurdaspur. The petitioner approached this Court by filing CWP No.7816 of 2006, challenging the order of her transfer dated 4.5.2006 by asserting, that in the order dated 24.3.2003, whereby, she was granted leave for a period of 5 years, it was expressly noticed, that she would retain her lien against the post from which she was proceeding on leave. It is not a matter of dispute that the aforestated writ petition filed by the petitioner was dismissed by this Court on 22.5.2006.

It would be pertinent to mention that the posting of the petitioner at Mini Primary Health Centre, Madhopur, in district Gurdaspur, was against the vacancy of one Devinder Kaur, Staff Nurse, who had proceeded on Ex-India leave, for a period of six months from 10.2.206 to 9.8.2006. It is, therefore, apparent that her post at Mini Primary Health Centre, Madhopur, was against a leave vacancy. The aforestated Devinder Kaur- respondent No.4, submitted her joining report at Mini Primary Health Centre, Madhopur, whereupon the petitioner was again transferred by an order dated 14.11.2006, within about six months from her posting at Mini Primary Health Centre, Madhopur, vide order dated 4.5.2006.

It is the contention of the learned counsel for the petitioner, that the instant order of transfer of the petitioner is in violation of the transfer policy issued by the State Government. It is also the contention of the learned counsel for the petitioner, that the petitioner should be allowed to continue at Mini Primary Health Centre, Madhopur, as the petitioner who was similarly situated, as Devinder Kaur (respondent No.4) was not allowed to continue at Civil Hospital, Pathankot, when

she had returned from leave, granted to her (by order dated 24.3.2003).

It is not possible for us to accept either of the submissions of the learned counsel for the petitioner. The transfer policy is inapplicable to the facts and circumstances of this case, on account of the fact, that the petitioner (as is her acknowledged claim in the pleadings of the instant case) was posted against the leave vacancy of Devinder Kaur - respondent No. 4. The posting order itself expressly notices, that the same was on account of Ex-India leave granted to Devinder Kaur - respondent No.4, and that, the petitioner's posting would continue till she returned from leave. It is too late in the day for the petitioner to dispute the validity of the condition imposed on her, when she was posted at Mini Primary Health Centre, Madhopur. It is also not possible for us to draw a parallel to the instant case, wherein the petitioner was posted against a leave reserve vacancy, and the situation which arose as a consequence of the petitioner herself proceeding on leave for a period of 5 years vide order dated 24.3.2003.

For the reasons recorded hereinabove, it is not possible for us to accept the challenge to the impugned order of transfer dated 14.11.2006.

Dismissed.

(J.S. Khehar)
Judge

(S.D. Anand)
Judge

November 20, 2006.
vig